

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

3:11cv501

DARRYL BYRD,

Plaintiff,

v.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

)
)
)
)
)
)
)
)
)
)
)

**MEMORANDUM
OF DECISION**

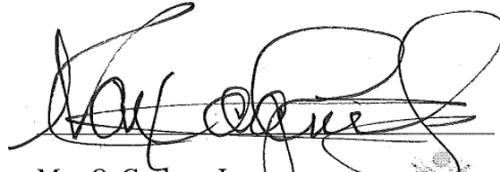
Sentence Four Remand

Defendant's Unopposed Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g) With Reversal and Remand of the Cause to the Defendant (#10) is granted. The Court orders that, upon remand, the Appeals Council will obtain opinion evidence from its Medical Support Staff on whether Plaintiff's impairments meet listing 14.08.B.4, and if so, whether drug and/or alcohol abuse is material to the finding. The Appeals Council will then either issue a decision, or, if further development is necessary, remand the case to an Administrative Law Judge (ALJ), with instructions to review the record and consider whether listing 14.08.B.4. has been met, paying particular attention to Social Security Ruling 93-2p. If the ALJ considers the relationship between Plaintiff's medication compliance and drug and/or alcohol abuse and his impairments, the ALJ shall follow the guidance set forth at 20 C.F.R. §§ 416.930 and 416.935. The ALJ may obtain medical expert opinion evidence, if necessary. The ALJ will then proceed through the sequential evaluation process and issue a new decision.

Therefore, this Court hereby reverses the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a remand of the cause to the Commissioner for further proceedings.

See Shalala v. Schaefer, 509 U.S. 292 (1993); Melkonyan v. Sullivan, 501 U.S. 89 (1991). The Clerk of Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

Signed: January 23, 2012



Max O. Cogburn Jr.
United States District Judge